



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153375

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 07, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 21, 2014 and March 12, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's FS case effective October 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Attorney John Serketich

Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On April 15, 2013, Petitioner submitted an online renewal for FS benefits to the agency reporting he is homeless with an address of [REDACTED]

3. On or about March 12, 2013, a complaint was filed with the agency fraud unit that Petitioner was residing with [REDACTED]. The agency commenced an investigation.
4. On May 1, 2013, a telephone interview was conducted with the Petitioner. He reported that he lives with his mother and sister but does not share food or prepare meals together.
5. On August 29, 2013, the agency completed its investigation and concluded that the Petitioner resides with [REDACTED] and their child.
6. On September 3, 2013, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would end effective October 1, 2013. Petitioner contacted agency to report that he does not live with [REDACTED]. He reported that he lives in Milwaukee but uses his mother's address at [REDACTED] as his mailing address.
7. On November 21, 2013, [REDACTED] reported to the agency in her renewal that the Petitioner lives with her and their child.

### **DISCUSSION**

A food unit for purposes of FS consists of one or more persons who live in the same household and purchase and prepare food together for home consumption. FoodShare Handbook (FSH) § 3.3.1.1.

The following individuals must be included in the same food unit, even if they do not purchase and prepare meals together:

1. Spouses and spouses,
2. Biological (unless no longer a parent because of adoption), adoptive, or step-parents and their children under the age of 22, and
3. Adults and minor children under the age of 18 years over whom they are exercising parental control.

FSH, § 3.3.1.3; 7 CFR 273.1(b)(1).

In a companion case, *In the Matter of* [REDACTED] *DHA Case No. FOP 153373*, this ALJ concluded that the Petitioner was residing with NG, the mother of his child, through at least September 30, 2013. The regulations require parents who live with their child to be in the same food unit. Based on the Petitioner's residence with NG and his child, the agency properly closed the Petitioner's case and added him to NG's case effective October 1, 2013.

### **CONCLUSIONS OF LAW**

The agency properly terminated the Petitioner's FS case effective October 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

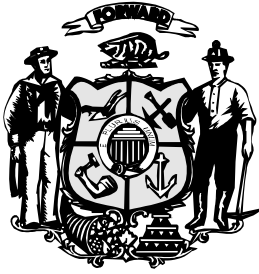
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of April, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 17, 2014.

Racine County Department of Human Services  
Division of Health Care Access and Accountability  
Attorney Patricia DeLessio  
Attorney John Serketich